

**SUBDIVISION
AND
DEVELOPMENT APPEAL BOARD
AGENDA**

**Thursday, 9:00 A.M.
October 13, 2016**

**Hearing Room No. 2
Churchill Building,
10019 - 103 Avenue NW,
Edmonton, AB**

**SUBDIVISION AND DEVELOPMENT APPEAL BOARD
HEARING ROOM NO. 2**

I	9:00 A.M.	SDAB-D-16-250	Construct a Single Detached House with front veranda, rear uncovered deck (3.05m x 5.18m), and Basement development (NOT to be used as an additional Dwelling) 9846 - 162 Street NW Project No.: 218943973-001
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II	10:30 A.M.	SDAB-D-16-251	Operate a Major Home Based Business (pet grooming - DOODLE DO'S) - Expires September 8, 2021 3519 - 56 Street NW Project No.: 225805449-001
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III	1:00 P.M.	SDAB-D-16-252	Operate a Major Home Based Business (Filling Sandbags: Sandbags.ca) 1951 - 232 Avenue NE Project No.: 227828340-001
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NOTE: *Unless otherwise stated, all references to “section numbers” refer to the authority under the Edmonton Zoning Bylaw 12800.*

ITEM I: 9:00 A.M.

FILE: SDAB-D-16-250

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 218943973-001

APPLICATION TO: Construct a Single Detached House with front veranda, rear uncovered deck (3.05m x 5.18m), and Basement development (NOT to be used as an additional Dwelling)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 13, 2016

DATE OF APPEAL: September 16, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 9846 - 162 Street NW

LEGAL DESCRIPTION: Plan 2521HW Blk 1 Lot 10

ZONE: RF4 Semi-detached Residential Zone

OVERLAY: Mature Neighbourhood Overlay

STATUTORY PLAN: Jasper Place Area Redevelopment Plan

General Matters

The Appellant provided the following reasons for appealing the decision of the Development Authority:

9846 - 162 Street NW Plan 2521HW Blk 1 Lot 10

I just copied and pasted what the city refused us on off the application. We are appealing the height as mentioned here. I know there is no variance for height that is why we are here. The overall height of the house is not really as far over the height as it seems. It's just where the city takes their measurement of the trusses. The overall height of our proposed building is no taller than what you see in these neighbourhoods.

Development Application Decision
Reason for Refusal:

Application for a Single Detached House is refused due to the following reason:

- 1. Section 814.3.13: The maximum Height shall not exceed 8.6m.
Maximum: 8.6m Proposed: 9.9m

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 150.2(6), **Single Detached Housing** is a **Permitted Use** in the RF4 Semi-detached Residential Zone.

Under section 7.2(9), **Single Detached Housing** means:

development consisting of a building containing only one Dwelling, which is separate from any other Dwelling or building. Where a Secondary Suite is a Permitted or Discretionary Use Class in a Zone, a building which contains Single Detached Housing may also contain a Secondary Suite. This Use Class includes Mobile Homes which conform to Section 78 of this Bylaw.

Section 150.1 states that the **General Purpose** of the **RF4 Semi-detached Residential Zone** is:

...to provide a zone primarily for Semi-detached Housing and Duplex Housing.

Section 814.1 states that the **General Purpose** of the **Mature Neighbourhood Overlay** is:

...to ensure that new low density development in Edmonton's mature residential neighbourhoods is sensitive in scale to existing development, maintains the traditional character and pedestrian-friendly design of the streetscape, ensures privacy and sunlight penetration on adjacent properties and provides opportunity for discussion between applicants and neighbouring affected parties when a development proposes to vary the Overlay regulations.

Mature Neighbourhood Overlay Regulations

Height

Section 814.3(13) states "The maximum Height shall not exceed 8.6 m, in accordance with Section 52."

Under section 6.1(50), **Height** means "a vertical distance between two points."

Development Officer's Determination

1. Section 814.3.13: The maximum Height shall not exceed 8.6m.

Maximum: 8.6m

Proposed: 9.9m

NOTE:

- Unless otherwise stated, all references to section numbers refer to the Edmonton Zoning Bylaw 12800. [unedited].

Community Consultation

Section 814.3(24) states:


When a Development Permit application is made and the Development Officer determines that the proposed development does not comply with the regulations contained in this Overlay:

- a. the applicant shall contact the affected parties, being each assessed owner of land wholly or partly located within a distance of 60.0 m of the Site of the proposed development and the President of each affected Community League;
- b. the applicant shall outline, to the affected parties, any requested variances to the Overlay and solicit their comments on the application;
- c. the applicant shall document any opinions or concerns, expressed by the affected parties, and what modifications were made to address their concerns; and

- d. the applicant shall submit this documentation to the Development Officer no sooner than twenty-one calendar days after giving the information to all affected parties.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.

	<p style="text-align: right;">Project Number: 218943973-001 Application Date: APR 06, 2016 Printed: September 13, 2016 at 8:43 AM Page: 1 of 2</p>		
<h2 style="margin: 0;">Application for House Development and Building Permit</h2>			
<p>This document is a record of a Development Permit and/or Building Permit application, and a record of the decision for the undertaking described below, subject to the limitations and conditions of this permit, of the Edmonton Zoning Bylaw 12800 as amended, Safety Codes Act RSA 2000, Safety Codes Act Permit Regulation, Alberta Building Code 2006 and City of Edmonton Bylaw 15894 Safety Codes Permit</p>			
<p>Applicant</p>	<p>Property Address(es) and Legal Description(s) 9846 - 162 STREET NW Plan 2521HW Blk 1 Lot 10</p> <hr/> <p>Location(s) of Work Entryway: 9846 - 162 STREET NW Building: 9846 - 162 STREET NW</p>		
<p>Scope of Application To construct a Single Detached House with front veranda, rear uncovered deck (3.05m x 5.18m), and Basement development (NOT to be used as an additional Dwelling).</p>			
<p>Permit Details</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> Affected Floor Area (sq. ft.): 1747 Class of Permit: (none) Front Yard (m): 6.45 Rear Yard (m): 30.19 Side Yard, left (m): 1.22 Site Area (sq. m): 371.9 Site Width (m): 7.62 </td> <td style="width: 50%; border: none;"> Building Height to Midpoint (m): 9.86 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.22 Site Depth (m): 48.79 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay </td> </tr> </table>		Affected Floor Area (sq. ft.): 1747 Class of Permit: (none) Front Yard (m): 6.45 Rear Yard (m): 30.19 Side Yard, left (m): 1.22 Site Area (sq. m): 371.9 Site Width (m): 7.62	Building Height to Midpoint (m): 9.86 Dwelling Type: Single Detached House Home Design Type: Secondary Suite Included?: N Side Yard, right (m): 1.22 Site Depth (m): 48.79 Stat. Plan Overlay/Annex Area: Mature Neighbourhood Overlay
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<p>I/We certify that the above noted details are correct. Applicant signature: _____</p>			
<p>Development Application Decision Refused</p> <p>Reason for Refusal Application for a Single Detached House is refused due to the following reason:</p> <p>1. Section 814.3.13: The maximum Height shall not exceed 8.6m.</p> <p>Maximum: 8.6m Proposed: 9.9m</p> <p>NOTE: - Unless otherwise stated, all references to section numbers refer to the Edmonton Zoning Bylaw 12800.</p> <p>Rights of Appeal The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.</p>			
<p>Issue Date: Sep 13, 2016 Development Authority: YEUNG, KENNETH Signature: _____</p>			
<p>THIS IS NOT A PERMIT</p>			



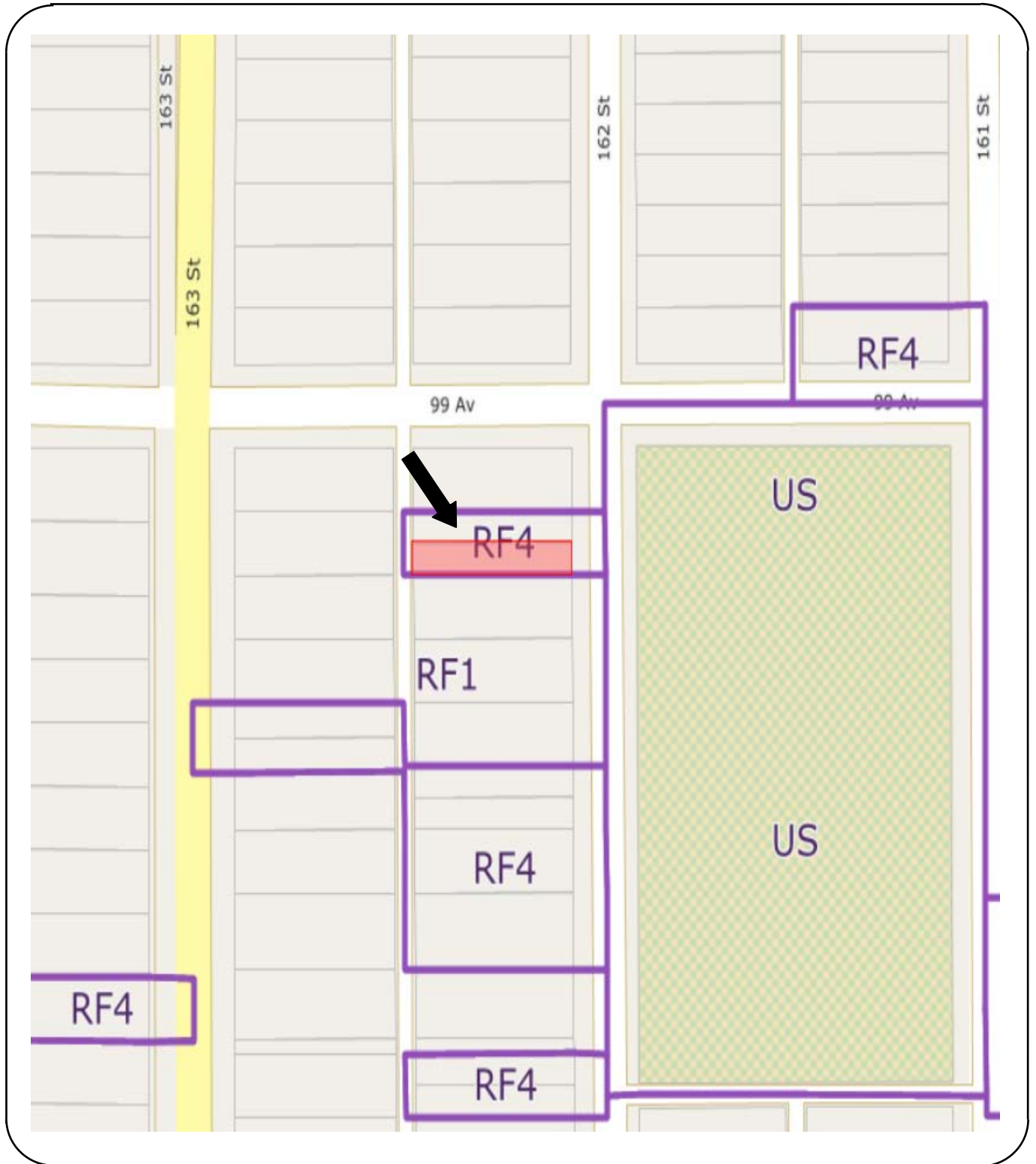
Project Number: **218943973-001**
Application Date: APR 06, 2016
Printed: September 13, 2016 at 8:43 AM
Page: 2 of 2

Application for House Development and Building Permit

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Electrical Fee (Service)	\$77.00	\$77.00	03183221	Apr 06, 2016
Water Usage Fee	\$44.77	\$44.77	03183221	Apr 06, 2016
Building Permit Fee	\$1,610.00	\$1,610.00	03183221	Apr 06, 2016
Electrical Fees (House)	\$265.00	\$265.00	03183221	Apr 06, 2016
Lot Grading Fee	\$135.00	\$135.00	03183221	Apr 06, 2016
Safety Codes Fee	\$64.40	\$64.40	03183221	Apr 06, 2016
Electrical Safety Codes Fee	\$15.10	\$15.10	03183221	Apr 06, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$2,211.27	\$2,211.27		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-250



ITEM II: 10:30 A.M.

FILE: SDAB-D-16-251

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER BY AN ADJACENT PROPERTY OWNER

APPELLANT:

APPLICATION NO.: 225805449-001

APPLICATION TO: Operate a Major Home Based Business.
(pet grooming - DOODLE DO'S) -
Expires September 8, 2021

DECISION OF THE DEVELOPMENT AUTHORITY: Approved with Conditions

DECISION DATE: September 8, 2016

NOTIFICATION PERIOD: September 15, 2016 through September 29, 2016

DATE OF APPEAL: September 14, 2016

RESPONDENT: T. Spokes

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 3519 - 56 Street NW

LEGAL DESCRIPTION: Plan 7721468 Blk 19 Lot 15

ZONE: RF1 Single Detached Residential Zone

OVERLAY: N/A

STATUTORY PLAN: N/A

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

There is already enough noise and traffic with Rainbow Daycare at 450 Woodvale Road East, and enough dogs barking already all around us right now. The current owner does not take care of the property in the back or the alley. There is limited parking as is and I do not want an increase in traffic through the alley to pick up or drop off at this proposed business. The owners dogs already bark at us when we are working outside or in our garage.

I find this total BS that we have to pay out of our pocket to appeal this. This is a residential area! If they want to start a business they should be paying to overturn this appeal. Rent a commercial space like everyone else, and leave what's left of our residential area alone.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

(2) In addition to an applicant under subsection (1), any person affected by an order, decision or development permit made or issued by a development authority may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

- (b) in the case of an appeal made by a person referred to in section 685(2), after the date on which the notice of the issuance of the permit was given in accordance with the land use bylaw.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;
- ...
- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;
- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 110.3(7), a **Major Home Based Business** is a **Discretionary Use** in the RF1 Single Detached Residential Zone.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses such businesses may generate more than one business associated visit per day. The business use must be secondary to the residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use Class includes Bed and Breakfast Operations but does not include General Retail Sales.

Section 110.1 state that the **General Purpose** of the **RF1 Single Detached Residential Zone** is:

...the purpose of this Zone is to provide for Single Detached Housing while allowing other forms of small scale housing in the form of Secondary Suites, Semi-detached Housing and Duplex Housing under certain conditions.

Development Officer's Determination:

1. Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3.7). [unedited].

Parking Requirements

Section 54.2 provides the following with respect to *Required Off-street Vehicular Accessory Parking*:

1. Number of Vehicular Spaces
 - a. The minimum number of off-street parking spaces required for each Use is specified in Schedule 1.

Section 54.2, Schedule 1(A)(3) states:

Single Detached Housing requires 2 parking spaces per Dwelling, may be in tandem and may include 1 Garage space.

Where a Front Yard driveway provides access to a parking space that is not within the Front Yard, the Development Officer may consider this driveway as the provision of a second car parking space that is in tandem.

Section 54.2, Schedule 1(A)(8) states:

A Major Home Based Business requires 1 parking space in addition to parking required for primary Dwelling.

Development Officer's Determination:

2. Parking - The site has 1 parking stall, instead of 3 (Section 54.2.1.a and Schedule 1.8) [unedited].

Major Home Based Business Regulations

A Major Home Based Business shall comply with the following regulations:

1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;

3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;
5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the *Municipal Government Act*.



Project Number: **225805449-001**
 Application Date: JUL 11, 2016
 Printed: September 8, 2016 at 8:37 AM
 Page: 2 of 3

Home Occupation

Subject to the Following Conditions

1. This Development Permit is NOT valid until the Notification Period expires in accordance to Section 21.1. (Reference Section 17.1)
2. This Development Permit may be revoked or invalidated, at any time, if the Major Home Based Business as stated in the Permit Details, or if the character or appearance of the Dwelling or Accessory Building, changes.
3. The Major Home Based Business shall be operated by a resident of the Dwelling on the property (Section 7.3.7).
4. The Major Home Based Business must be secondary to the residential Use of the building (Section 7.3.7)
5. A minimum of 1 parking spaces [located in the rear yard] shall be used for the purpose of accommodating the vehicles of residents and visitors in connection with the Single Detached House (Reference Section 54.1.1.c, 54.2.1.a, and 54.2.4).
6. There shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling (section 75.1)
7. There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings (section 75.2)
8. The Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located (section 75.3). All client visits shall be scheduled by appointment only between noon to 8:00 PM, and no two appointments shall overlap. No dedicated waiting room for this business shall be created inside the dwelling.
9. There shall be no non-resident employees or business partners working on site.
10. There shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings (Section 75.5).
11. The Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings (Section 75.6).
12. A Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling (Section 75.10).
13. There shall be a maximum of two household pets belonging to the clients of this business on the property at any time.
14. Household pets belonging to the clients of this business shall remain inside the Dwelling at all times, except when the client is dropping off or picking up their household pet on their scheduled appointment, or to allow dogs belonging to clients to perform bodily functions in the rear yard.
15. No household pets belonging to the clients of this business shall remain on the property overnight.
16. This approval is for a 5 year period from the date of this decision. A new Development Permit must be obtained to continue to operate the business from this location. This Development Permit expires on September 8, 2021.

NOTES:

- A. This Development Permit is not a Business Licence.
- B. Signs require separate Development Applications.
- C. An approved Development Permit means that the proposed development has been reviewed only against the provisions of the Edmonton Zoning Bylaw. It does not remove obligations to conform with other legislation, bylaws or land title instruments such as the Municipal Government Act, the EPCRA Division 670, the Edmonton Safety Code, Permit Bylaws, or any other applicable laws.

The permit holder is advised to read the reverse for important information concerning this decision.



Project Number: 225805449-001
Application Date: JUL 11, 2016
Printed: September 8, 2016 at 8:37 AM
Page: 3 of 3

Home Occupation

as the Municipal Government Act, the EKCB Directive 0/9, the Edmonton Safety Codes Permit Bylaw or any caveats, covenants or easements that might be attached to the Site.

D. No person shall keep or have more than three Dogs on any premise with a municipal address in the City (Section 29.1 of the Animal Control Bylaw 13145).

Variations

1. Discretionary Use - Major Home Based Business is approved as a Discretionary Use (Section 110.3.7).
2. Parking - The site has 1 parking stall, instead of 3 (Section 54.2.1.a and Schedule 1.8)

Rights of Appeal

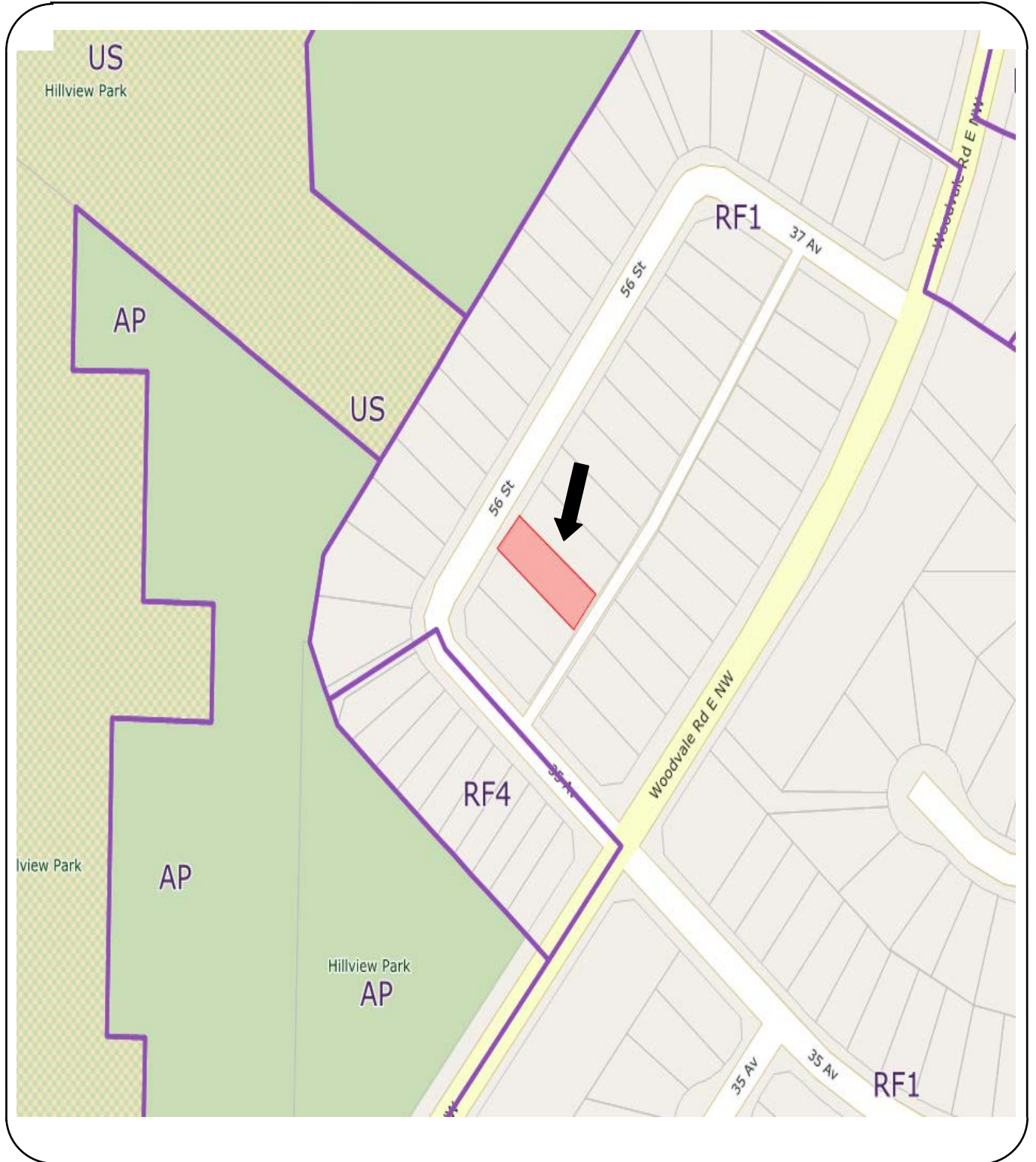
This approval is subject to the right of appeal as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Sep 08, 2016 Development Authority: LIANG, BENNY Signature: _____
Notice Period Begins: Sep 15, 2016 Ends: Sep 29, 2016

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$297.00	03433972	Jul 11, 2016
Total GST Amount:	\$0.00			
Totals for Permit:	\$297.00	\$297.00		

The permit holder is advised to read the reverse for important information concerning this decision.



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-251



ITEM III: 1:00 P.M.

FILE: SDAB-D-16-252

AN APPEAL FROM THE DECISION OF THE DEVELOPMENT OFFICER

APPELLANT:

APPLICATION NO.: 227828340-001

APPLICATION TO: Operate a Major Home Based Business
(Filling Sandbags: Sandbags.ca)

DECISION OF THE DEVELOPMENT AUTHORITY: Refused

DECISION DATE: September 2, 2016

DATE OF APPEAL: September 17, 2016

MUNICIPAL DESCRIPTION OF SUBJECT PROPERTY: 1951 - 232 Avenue NE

LEGAL DESCRIPTION: Plan 9723204 Lot 4A

ZONE: (AG) Agricultural Zone

OVERLAY: N/A

STATUTORY PLAN: Edmonton Energy and Technology Park Area Structure Plan

Grounds for Appeal

The Appellant provided the following reasons for appealing the decision of the Development Authority:

I am appealing this decision based on the fact that the filling of the sandbags only takes place from July to October and it is being done inside our property. As noted in the inspection there is sufficient fencing and tress that neighbouring residents will not be disturbed at all. If standing on outside and looking in to the property you cannot see the sandbags. A bobcat is being used move pallets around and sandbags are being filled by hand, no machine is being used. We will be able to also provide a letter of support from our neighbours as there is not disturbance to them.

General Matters

Appeal Information:

The *Municipal Government Act*, RSA 2000, c M-26 states the following:

Grounds for Appeal

685(1) If a development authority

- (a) fails or refuses to issue a development permit to a person,
- (b) issues a development permit subject to conditions, or
- (c) issues an order under section 645,

the person applying for the permit or affected by the order under section 645 may appeal to the subdivision and development appeal board.

Appeals

686(1) A development appeal to a subdivision and development appeal board is commenced by filing a notice of the appeal, containing reasons, with the board within 14 days,

- (a) in the case of an appeal made by a person referred to in section 685(1), after
 - (i) the date on which the person is notified of the order or decision or the issuance of the development permit, or

...

The decision of the Development Officer is dated September 2, 2016. The Notice of Appeal was filed on September 17, 2016.

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

...

- (a.1) must comply with the land use policies and statutory plans and, subject to clause (d), the land use bylaw in effect;

...

- (c) may confirm, revoke or vary the order, decision or development permit or any condition attached to any of them or make or substitute an order, decision or permit of its own;

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,
 - and
 - (ii) the proposed development conforms with the use prescribed for that land or building in the land use bylaw.

General Provisions from the *Edmonton Zoning Bylaw*:

Under section 610.3(3), a **Major Home Based Business** is a **Discretionary Use** in the (AG) Agricultural Zone.

Under sections 610.2 and 610.3, a **General Industrial Use** is **neither** a Permitted Use **nor** a Discretionary Use in the (AG) Agricultural Zone.

Under section 7.3(7), **Major Home Based Business** means:

development consisting of the use of an approved Dwelling or Accessory building by a resident of that Dwelling for one or more businesses such businesses may generate more than one business associated visit per day. The business use must be secondary to the residential Use of the building and shall not change the residential character of the Dwelling or Accessory building. The Dwelling may be used as a workplace by a non-resident. This Use Class includes Bed and Breakfast Operations but does not include General Retail Sales.

Under section 7.5(2), **General Industrial Uses** means:

development used principally for one or more of the following activities:
the processing of raw materials;

- a. the making, manufacturing or assembling of semi-finished or finished goods, products or equipment;
- b. the cleaning, servicing, repairing or testing of materials, goods and equipment normally associated with industrial or commercial businesses or cleaning, servicing and repair operations to goods and equipment associated with personal or household use, where such operations have impacts that would make them incompatible in Non-industrial Zones;

- c. the storage or transshipping of materials, goods and equipment;
- d. the distribution and sale of materials, goods and equipment to institutions or industrial and commercial businesses for their direct use or to General Retail Stores or other sales Use Classes defined in this Bylaw for resale to individual customers; or
- e. the training of personnel in general industrial operations.

This Use Class includes vehicle body repair and paint shops. This Use Class does not include Major Impact Utility Services and Minor Impact Utility Services or the preparation of food and beverages for direct sale to the public.

Section 610.1 state that the **General Purpose** of the **(AG) Agricultural Zone** is:

...to conserve agricultural and rural land use activities.

Development Officer's Determination:

1. Section 610 - The Development Authority determines this use to be a General Industrial Use, which is neither a Permitted nor a Discretionary Use in the AG Agricultural Zone.

The proposed use should be considered a General Industrial Use because the proposed development will be used primarily for the processing of sand, and the manufacturing, storage and transshipping of sandbags. [unedited].

Major Home Based Business Regulations

A Major Home Based Business shall comply with the following regulations:

- 1. there shall be no exterior display or advertisement other than an identification plaque or Sign a maximum of 20 cm x 30.5 cm in size located on the Dwelling;
- 2. there shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings;
- 3. the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located;
- 4. the number of non-resident employees or business partners working on-site shall not exceed two at any one time;

5. there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business. Indoor storage related to the business activity shall be allowed in either the Dwelling or Accessory buildings;
6. the Major Home Based Business shall not change the principal character or external appearance of the Dwelling or Accessory buildings;
7. a Bed and Breakfast Operation, operating as a Major Home Based Business shall have a maximum of two Sleeping Units. Cooking facilities shall not be located within the Sleeping Units. In addition to any other parking requirements of this Bylaw, one additional parking space shall be provided for each Sleeping Unit;
8. in addition to the information requirements of subsection 13.1 of this Bylaw, each application for a Development Permit for the Use Class Major Home Based Business shall include a description of the business to be undertaken at the premises, an indication of the number of business visits per week, provision for parking, and where any materials or equipment associated with the business use are to be stored; and
9. the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.
10. a Major Home Based Business shall not be allowed within the same principal Dwelling containing a Secondary Suite or within the same Site containing a Garage Suite or a Garden Suite and an associated principal Dwelling, unless the Home Based Business is a Bed and Breakfast Operation and the Secondary Suite or the Garage Suite or the Garden Suite is an integral part of the Bed and Breakfast Operation.

Development Officer's Determination:

2. Section 75(9) - the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

Since the proposed use should be classified as a General Industrial Use and the proposed Major Home Based Business would not meet 4 regulations of Section 75, it is in the opinion of the Development

Officer that such use is more appropriately located in an Industrial Zone.

3. Section 75(4) - the number of non-resident employees or business partners working on-site shall not exceed two at any one time.

The business employs 7-8 persons at the one time on the property to process sand and manufacture sandbags.

4. Section 75(5) - there shall be no outdoor business activity, or outdoor storage of material or equipment associated with the business.

Approximately 390 pallets of sandbags (totalling 21,450 sandbags weighing 386,100 kg) was stored outside during an inspection on August 28, 2016. Tandem trucks (28 cubic yards) transport sand into the property and flat-bed trucks move sandbags off the property. The amount of outdoor business activity is considered excessive for a Major Home Based Business.

5. Section 75(2) - There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings.


Tandem trucks (28 cubic yards) and flat-bed trucks move materials and products on-and-off the property. A bobcat and a sandbag filling machine is used to process sand and manufacture sandbag. The business uses industrial equipment and vehicles, which creates external noise. There are 2 Single Detached Houses that front onto 232 Avenue NE.

6. Section 75(3) - the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located.

Up to 8 vehicles from employees enter and exit the property per day. Tandem trucks (28 cubic yards) and flat-bed trucks move materials and products on-and-off the property. The industrial nature of the traffic generated by this business is considered uncharacteristic of an Agricultural Zone. [unedited].

Notice to Applicant/Appellant

Provincial legislation requires that the Subdivision and Development Appeal Board issue its official decision in writing within fifteen days of the conclusion of the hearing. Bylaw No. 11136 requires that a verbal announcement of the Board's decision shall be made at the conclusion of the hearing of an appeal, but the verbal decision is not final nor binding on the Board until the decision has been given in writing in accordance with the Municipal Government Act.

	Project Number: 227828340-001 Application Date: AUG 09, 2016 Printed: September 2, 2016 at 3:58 PM Page: 1 of 3
<h2 style="margin: 0;">Application for Home Occupation</h2>	
This document is a Development Permit Decision for the development application described below.	
Applicant	Property Address(es) and Legal Description(s) 1951 - 232 AVENUE NE Plan 9723204 Lot 4A
	Specific Address(es) Entryway: 1951 - 232 AVENUE NE Building: 1951 - 232 AVENUE NE
Scope of Application To operate a Major Home Based Business (Filling Sandbags – Sandbags.ca)	
Permit Details	
# of business related visits/day: 5 Administration Office Only?: N Class of Permit: Class B Do you live at the property?: Y Outdoor storage on site?: Y	# of vehicles at one time: 2 Business has Trailers or Equipment?: Y Description of Business: Filling sandbags Expiry Date:
I/We certify that the above noted details are correct. Applicant signature: _____	
Development Application Decision Refused	
THIS IS NOT A PERMIT	



Project Number: 227828340-001
Application Date: AUG 09, 2016
Printed: September 2, 2016 at 3:58 PM
Page: 2 of 3

Application for Home Occupation

Reason for Refusal

1. Section 610 - The Development Authority determines this use to be a General Industrial Use, which is neither a Permitted nor a Discretionary Use in the AG Agricultural Zone.

The proposed use should be considered a General Industrial Use because the proposed development will be used primarily for the processing of sand, and the manufacturing, storage and transshipping of sandbags.

2. Section 75(9) - the Major Home Based Business shall not be allowed if, in the opinion of the Development Officer, such Use would be more appropriately located in a Commercial or Industrial Zone having regard for the overall compatibility of the Use with the residential character of the area.

Since the proposed use should be classified as a General Industrial Use and the proposed Major Home Based Business would not meet 4 regulations of Section 75, it is in the opinion of the Development Officer that such use is more appropriately located in an Industrial Zone.

3. Section 75(4) - the number of non-resident employees or business partners working on-site shall not exceed two at any one time.

The business employs 7-8 persons at the one time on the property to process sand and manufacture sandbags.

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5. Section 75(2) - There shall be no mechanical or electrical equipment used that creates external noise, or visible and audible interference with home electronics equipment in adjacent Dwellings.

Tandem trucks (28 cubic yards) and flat-bed trucks move materials and products on-and-off the property. A bobcat and a sandbag filling machine is used to process sand and manufacture sandbag. The business uses industrial equipment and vehicles, which creates external noise. There are 2 Single Detached Houses that front onto 232 Avenue NE.

6. Section 75(3) - the Major Home Based Business shall not generate pedestrian or vehicular traffic, or parking, in excess of that which is characteristic of the Zone in which it is located.

Up to 8 vehicles from employees enter and exit the property per day. Tandem trucks (28 cubic yards) and flat-bed trucks move materials and products on-and-off the property. The industrial nature of the traffic generated by this business is considered uncharacteristic of an Agricultural Zone.

Rights of Appeal

The Applicant has the right of appeal within 14 days of receiving notice of the Development Application Decision, as outlined in Chapter 24, Section 683 through 689 of the Municipal Government Amendment Act.

Issue Date: Sep 02, 2016 Development Authority: LIANG, BENNY

Signature: _____

THIS IS NOT A PERMIT



Project Number: **227828340-001**
Application Date: AUG 09, 2016
Printed: September 2, 2016 at 3:58 PM
Page: 3 of 3

Application for Home Occupation

Fees

	Fee Amount	Amount Paid	Receipt #	Date Paid
Dev. Application Fee	\$297.00	\$297.00	03508053	Aug 09, 2016
Total GST Amount:	<u>\$0.00</u>	<u> </u>		
Totals for Permit:	\$297.00	\$297.00		

THIS IS NOT A PERMIT



SURROUNDING LAND USE DISTRICTS

Site Location ←

File: SDAB-D-16-252



BUSINESS LAID OVER

SDAB-D-16-242	An appeal by <u>Ogilvie Law LLP</u> to change the Use from a General Retail Store to a Minor Alcohol Sales Use. <i>October 20, 2016</i>
SDAB-D-16-237	An appeal by <u>Pattison Outdoor Advertising</u> to install (1) Freestanding Minor Digital Off-premises Sign (6.1 m x 3 m facing E/W) <i>November 3, 2016</i>
SDAB-D-16-144	An appeal by Kiewit Energy Canada Corp to construct 6 Accessory General Industrial Use buildings - existing without permits (Kiewit Energy Canada Corp - 3 lunchroom buildings, 2 office buildings, and 1 office/lunch building) <i>November 30 or December 1, 2016</i>
SDAB-S-14-001	An appeal by Stantec Consulting Ltd. to create 78 Single Detached residential lots, 36 Semi-detached residential lots, 31 Row Housing lots and three (3) Public Utility lots from SE 13-51-25-4 <i>January 25, 2017</i>

APPEAL HEARINGS TO BE SCHEDULED

188282372-001	An appeal by <u>Kennedy Agrios</u> to change the use from general Retail to a Bar and Neighbourhood Pub (maximum of 400 occupants and 691 square metres of Public Space) <i>November 2 or 3, 2016</i>
000413016-003	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>November 17, 2016</i>
000413016-004	An appeal by <u>Wigalo Holding Ltd. / Kennedy Agrios</u> to Comply with a Stop Order to Cease the Non-Accessory Parking, REMOVE all meters, signage and material related to parking and REFRAIN from allowing Non-Accessory Parking. <i>November 17, 2016</i>
188283359-001	An appeal by <u>Kennedy Agrios</u> to change the use from a Flea Market Use to a Night Club and Major Amusement Establishment (1757 square metres of Public space) <i>November 23 or 24, 2016</i>
182548244-007	An appeal by <u>Stephanie Chan VS Deborah & Terence Nikolaichuk</u> to construct an Accessory Building (Shed, 3.20 metres by 3.12 metres), existing without permits <i>December 7 or 8, 2016</i>
128010578-001	An appeal by <u>Jeffrey Jirsch VS Anna Bashir</u> to erect a Privacy Screen 8ft in height along the Southwest portion of the property, along a Required Side Yard <i>December 7 or 8, 2016</i>